

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

BLAINE PENNISON

*** CIVIL ACTION NO. 17-00875**
SEC. P.

VERSUS

*** JUDGE ROBERT G JAMES**

CLAY JOHNSON

*** MAG. JUDGE KATHLEEN KAY**

RULING

Pending before the Court is a Petition for Writ of *Habeas Corpus* filed, pro se, by Petitioner Blaine Pennison, pursuant to 28 U.S.C. § 2241. On December 28, 2017, Magistrate Judge Kathleen Kay issued a Report and Recommendation [Doc. No. 8], recommending that the Petition be denied and dismissed with prejudice for lack of merit.

Petitioner filed objections [Doc. No. 9] to the Report and Recommendation.

After having conducted a *de novo* review of the entire record, including Petitioner's objections, the Court agrees with and ADOPTS Magistrate Judge Kay's Report and Recommendation. The Court issues this Ruling to address two matters.

First, Petitioner takes issue with the listing of Defendant's name as "Clay Johnson," when it should be corrected to Calvin Johnson. He suggests that this mistake is somehow indicative of Magistrate Judge Kay's lack of consideration of his case. However, it was Petitioner himself who listed Defendant as "Clay Johnson" in his original Complaint. [Doc. No. 1].

Second, Petitioner objects that Magistrate Judge Kay misconstrued his argument. He contends that "Judge Duval already ordered at sentencing that the 100-month federal term was to run fully concurrently with the 3-year, 30-day Louisiana term. Petitioner argues that the only way for the BOP to comply with that order is by giving him credit for all the time he was in

Louisiana custody . . . from his arrest on August 13, 2009, through the day before Judge Duval's imposition of the federal sentence on March 12, 2014.” [Doc. No. 9, p. 3]. However, Magistrate Judge Kay has addressed Petitioner's argument by finding that Judge Duval, as he conceded, did not have the authority to order Petitioner to receive credit for time that was credited towards another sentence.

Accordingly, for the reasons stated in the Report and Recommendation adopted by the Court and for these additional reasons, Petitioner's Petition for Writ of *Habeas Corpus* is DENIED and DISMISSED WITH PREJUDICE.

MONROE, LOUISIANA, this 1st day of June, 2018.



ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE